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11 **UNITED DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
13 **(SAN FRANCISCO DIVISION)**

14 CLAIRES C. HAGGARTY, individually and on  
15 behalf of all others similarly situated,

16 Plaintiff,

17 vs.

18 STRYKER ORTHOPAEDICS (aka STRYKER  
19 ORTHOPEDICS; aka STRYKER  
20 ORTHOPEDICS, INC.); HOWMEDICA  
OSTEONICS CORPORATION; STRYKER  
21 CORPORATION; and STRYKER SALES  
CORPORATION,

22 Defendants.

Case No: CV-08-01609-JCS

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED**

Judge: Hon. Joseph C. Spero

23 TO ALL PARTIES IN THE ABOVE-TITLED ACTION:

24 PLEASE TAKE NOTICE that pursuant to Civil Local Rules 3-12 and 7-11, Defendants  
25 Stryker Orthopaedics; Howmedica Osteonics Corporation; Stryker Corporation; and Stryker  
26 Sales Corporation (collectively the "Stryker Defendants"), hereby move the Court to determine  
27 that the above-titled case) and a similar case, *Goldene Somerville, et al. v. Stryker Orthopedics,*  
28 *et al.*, Case No. 08-cv-02443-HRL ("Somerville"), which is currently pending in the San Jose

1 Division of the United States District Court for the Northern District of California, are related.

2  
3 **DISCUSSION**

4 These cases, (“Haggarty”) and (“Somerville”), are essentially the same class action cases.  
5 The defendants in both cases are the same. The causes of action are the same. The transactions  
6 on which the allegations are based are the same. The only difference between the two cases is  
7 the identity of the named plaintiff.

8 Haggarty and Somerville each allege that the Stryker Defendants engaged in a kickback  
9 scheme with doctors and/or hospitals in order to promote the use of the Stryker Defendants’  
10 products in hip and knee replacement surgeries. Haggarty and Somerville each allege that the  
11 alleged kickback scheme was a violation of California Business & Professions Code section  
12 16700 et seq. (the “Cartwright Act”) and California Business & Professions Code section 17200.  
13 Haggarty and Somerville each seeks to represent the same class of individuals, i.e.:

14 All individuals who are, or at the relevant time were, residents of  
15 California who either were uninsured or had a private health care  
16 insurance policy pursuant to which they paid a percentage of the  
17 total costs of surgical procedures, and who had hip or knee implant  
surgery during the Class period that involved the use of Stryker  
products.

18 Compare Haggarty Complaint ¶ 31 with Somerville Complaint ¶ 33. Because the cases are  
19 essentially identical, there would be an unduly burdensome duplication of effort labor and  
20 expense and perhaps conflicting results if the cases are conducted before different Judges.

21 The Stryker Defendants, the plaintiff in this action, and the plaintiff in Somerville have  
22 stipulated that the cases are related and that Somerville, the later-filed case, should be reassigned  
23 to the Honorable Judge Spero pursuant to Local Rule 3-12(f)(3). See Stipulation to Consider  
24 Cases Related filed herewith.

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**CONCLUSION**

For the foregoing reasons, the Stryker Defendants, with the plaintiffs' stipulation, request that the Court determine that the cases are related so that Clerk can reassign the Somerville case pursuant to Local Rule 3-12(f)(3).

DATED: May 21, 2008

**KASOWITZ BENSON TORRES & FRIEDMAN LLP**

By: /s/ William M. Goodman  
WILLIAM M. GOODMAN

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